

REMARKS / ARGUMENTS

Status of Claims

Claims 1-17 are pending in the application with claims 1-12, and 16-17 standing rejected and claims 13-15 being allowed by the Examiner. Applicant submits that claims 1 and 16 have been amended, and claim 17 has been cancelled. Therefore claims 1-16 are left for consideration by the Examiner.

Applicant respectfully submits that in this fully responsive reply the rejections under 35 U.S.C. §103(a) have been traversed, no new matter has been entered, and the subject application is in condition for allowance. Therefore, reconsideration of the pending rejections and favorable allowance of the subject application are earnestly solicited.

Allowable Subject Matter

Applicants thank the Examiner for indication that claims 13-15 contain allowable subject matter, and that they have been allowed. However, Applicants note that the Examiner mistakenly noted claims 13-15 as “objected to...” on PTO Form 326 of the Pending Office Action. Accordingly, Applicant respectfully requests withdrawal of the noted objection, which Applicant believes to be in error.

Rejections Under 35 U.S.C. §103(a)

Claims 1, 2, 6, 16 and 17

Claims 1, 2, 6, 16 and 17 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lee (U.S. Publication No. 2003/0016417 A1, hereinafter Lee) in view of Chevassus et al. (U.S. Patent No. 6,342,878, hereinafter Chevassus). Applicant respectfully traverses this rejection for the following reasons.

Lee is directed to a wireless pointing and a briefing pointer device (see Lee, Abstract). Lee discloses a selection switch 15, located on a casing 1, to select between a first operating mode, a second operating mode, and a third mode described as a power-off

mode (see Lee, para. [0030]-[0031]). Lee describes the first two modes as those of a conventional mouse and a conventional briefing pointer (see Lee, Abstract). With regards to disclosure of a conventional mouse Applicants assert that this is simply a disclosure of position tracking and fundamentally differs from embodiments of the present invention. For example, as set forth in the specification in at least paragraph [0025], “[t]he device comprises a head 12a and means 12b for forming sensors ... which are suitable for detecting six shift components (three translation components and three angular components) imposed by the user on the head 12a of the device” (see Specification, para. [0025]). Such is clearly different from position tracking of the conventional mice of Lee. Therefore, Lee does not disclose or suggest “means for transmitting command information to means for processing as a function of shift and/or efforts applied by a user on the device” as recited in independent claim 1 (emphasis added).

Furthermore, Applicants respectfully submit that Lee fails to disclose or suggest, at least, “switch from one operating mode where the gripping element is used for manipulating 3D images on the display means to an operating mode where the device is used as a 2D pointer for selection on the display means and vice versa” as recited in independent claim 1.

As discussed above, Lee discloses switching between a conventional mouse mode and a conventional briefing pointer mode. Applicants do not concede that either mode is directed to manipulation of 3D images OR selection at all. In fact, the entirety of Lee’s disclosure is directed to briefing and devices used in briefing, and is silent regarding manipulation of 3D images and selection on display means.

Moreover, it is respectfully submitted that Chevassus fails to cure the deficiencies of Lee. Chevassus is directed to an input peripheral for a computer with automatic switching between three-dimensional (3D) and two-dimensional (2D) operating modes (see Chevassus, Abstract). Chevassus discloses a mobile casing 10 including an electromagnetic sensor 16 to determine a position of the mobile casing 10 in relation to a fixed or stationary source 17 (see Chevassus, FIG. 3; and col. 4, ll. 59-65). Chevassus particularly describes a user’s interaction with the casing 10 to include movement of the

entire casing 10 in a three-dimensional space or volume. For example, a user of the casing 10 would move the casing 10 within a volume, and the electromagnetic sensor 16 would detect the position of the casing 10 (see Chevassus, col. 4, ll. 33-35).

Therefore, Chevassus discloses a conventional mouse with a 3D interaction comprised of moving the entire mouse in a three-dimensional volume, and automatic switching between 3D and 2D interactions. This 3D interaction as disclosed by Chevassus is actual 3D position movements of an entire casing 10. Such is a disclosure of three-dimensional movements of the casing and not manipulation of three-dimensional images.

Therefore, Chevassus cannot disclose or suggest “switch from one operating mode where the gripping element is used for manipulating 3D images on the display means to an operating mode where the device is used as a 2D pointer or for selection on the display means and vice versa” as recited in independent claim 1.

For all of the reasons given above, Chevassus and Lee, taken alone or in combination, do not disclose or suggest the limitations of claim 1. Applicant submits that Claims 2 and 6 are also patentable, at least by virtue of their dependency upon independent claim 1.

Regarding claim 16, it is respectfully submitted that, as argued above, Lee and Chevassus fail to disclose or suggest “switch from one operating mode where the gripping element is used for manipulating 3D images on the display means to an operating mode where the device is used as a 2D pointer for selection on the display means” as recited in independent claim 16. Therefore, claim 16 is patentable over Lee and Chevassus, alone or in any combination.

Therefore, for all of the reasons given above, Lee and Chevassus, taken alone or in combination, do not disclose or suggest the limitations of claim 16. Further, as set forth in Applicants’ Response dated June 12, 2007, Chevassus teaches away from the asserted combination, and therefore cannot properly be applied to establish a prima facie case of obviousness against independent claims 1 and 16, and associated dependent claims.

(It is noted that claim 17 has been cancelled and arguments regarding claim 17 have been omitted with the understanding that the Examiner will most probably withdraw the rejection of claim 17)

Applicants respectfully request the Examiner to withdraw this rejection.

Claims 3-5

Claims 3-5 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lee in view of Chevassus and further in view of Reid et al. (U.S. Patent No. 6,853,365, hereinafter Reid).

As argued above, Chevassus and Lee fail to disclose or suggest the limitations of independent claim 1. Furthermore, Applicant submits that even if Chevassus, Lee, and Reid were combinable (which Applicant does not admit), the resulting combination would still not disclose or suggest the limitations of claim 1, as Reid fails to cure the deficiencies of Chevassus and Lee discussed above. Moreover, as set forth above, Chevassus particularly teaches away from the asserted combination. Therefore, Applicant submits that claim 1 is patentable over Chevassus, Lee, and Reid, and that claims 3-5 are patentable at least by virtue of their dependency upon independent claim 1.

Claims 7-12

Claims 7-12 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lee in view of Chevassus and further in view of Zagnoev (U.S. Publication No. 2003/0090394, hereinafter Zagnoev).

As argued above, Chevassus and Lee fail to disclose or suggest the limitations of independent claim 1. Furthermore, Applicant submits that even if Chevassus, Lee, and Zagnoev were combinable (which Applicant does not admit), the resulting combination would still not disclose or suggest the limitations of claim 1, as Zagnoev fails to cure the deficiencies of Chevassus and Lee discussed above. Moreover, as set forth above, Chevassus particularly teaches away from the asserted combination. Therefore, Applicant

submits that claim 1 is patentable over Chevassus, Lee, and Zagnoev, and that claims 7-12 are patentable at least by virtue of their dependency upon independent claim 1.

Summary of Arguments of Pending Rejections

In summary, Applicant respectfully submits that the obviousness rejection based on at least Chevassus and Lee is improper as the References fail to teach or suggest each and every element of the instant invention in such a manner as to perform as the claimed invention performs. For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a prima facie case of obviousness. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). The Examiner must meet the burden of establishing that all elements of the invention are taught or suggested in the prior art. MPEP §2143.03.

Furthermore, as provided in Applicants' Response dated June 12, 2007, Chevassus discloses that the main purpose of Chevassus' disclosure is to provide automatic switching of modes, and therefore teaches away from the asserted combination of Chevassus and Lee, which as set forth by the Examiner, requires direct manual input to switch between modes (see Office Action dated August 23, 2007, page 3). As such, the alleged combinations of Chevassus and Lee cannot properly be applied to establish a prima facie case of obviousness to support the pending rejections.

CONCLUSION

In view of above remarks, reconsideration of the outstanding rejections and allowance of pending claims 1-12, and 16 is respectfully requested.

If the Examiner believes that communication with Applicant's Representatives would assist in advancing this case to allowance, the Examiner is cordially invited to contact the undersigned so that any such issues may be promptly resolved.

The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment, to Deposit Account No. 06-1130.

In the event that an extension of time is required, or may be required in addition to that requested in a petition for extension of time, the Commissioner is requested to grant a petition for that extension of time that is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above-identified Deposit Account.

Respectfully submitted,

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